



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 18 2003

Mr. Mike Allan
Manager, Radioactive Material Shipments Section
Nuclear Waste Management
1549 Victoria Street East
Whitby ON Canada L1N 9E3

RefNo: 03-0249

Dear Mr. Allan:

This is in response to your e-mail transmission dated October 9, 2003 and subsequent telephone conversation with Fred Ferate of the Office of Hazardous Materials Technology, requesting clarification of the labeling and placarding requirements for low specific activity (LSA)-II materials that also have a subsidiary hazard class under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

In your e-mail, you imply that the Canadian Transportation of Dangerous Goods - Clear Language regulation (TDG-CL) (Part 4 Section 4.15 of TDG-CL) requires a shipment of LSA-II Class 7 material that also has a subsidiary hazard (e.g. Class 3) to bear only the primary label and placard. Specifically, you ask whether the reciprocity provisions of § 171.12a apply to shipments that originate in Canada, thus allowing materials to be shipped into the United States that conform to Canadian regulations.

The transportation of hazardous materials from Canada to the United States by rail or highway is governed by § 171.12a of the HMR. Section 171.12a(b) describes the conditions under which shipments of hazardous materials entering the United States from Canada may be accepted when shipments conform to Canadian transport regulations. Section 171.12a(b)(8) specifies that Class 7 material must conform to the provisions of § 171.12(d). Section 171.12(d) specifies that Class 7 materials imported into the United States may be offered and accepted for transportation when packaged, marked, labeled, and otherwise prepared for shipment in accordance with International Atomic Energy Agency (IAEA), "Regulations for the Safe Transport of Radioactive Material," Safety Series No.6 or TS-R-1.

Paragraph 407 of Safety Series No. 6, 1985 Edition (as amended 1990), and paragraph 507 of TS-R-1, 1996 Edition (revised) both indicate that materials may be offered and accepted for transportation when packaged, marked, labeled and otherwise prepared for shipment in accordance with the transport regulations for dangerous goods of each of the countries through or into which the materials will be transported. Therefore, such shipments transported from Canada to the United States must meet the applicable labeling and placarding provisions outlined in subparts E and F of Part 172 of the HMR. These provisions include a requirement in § 172.402 to label the package for the primary and certain secondary hazards. Requirements for placards for



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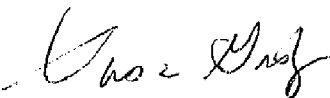
172.402

subsidiary hazards are described in § 172.505. Except as specified in § 172.505, a shipment of Class 7 material does not need to be placarded for a subsidiary hazard.

When dealing with a radioactive material with an additional hazard, if the radioactive component is eligible to be shipped as a limited quantity of radioactive material in an excepted package in accordance with 49 CFR 173.421, Section 171.2a(a)(1) indicates that Class 7 is no longer the primary hazard. In addition, Section 173.423 indicates that, unless the material qualifies for a small quantity exception under Section 173.4, the hazard class to be assigned to the material must be the class corresponding to the additional hazard.

I hope this information is helpful. If we can be of further assistance, feel free to contact us.

Sincerely,



Susan Gorsky
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards

09 October 2003

US Department of Transportation

RSPA/Office of Hazardous Materials Standards

400 7th St. S.W., DHM-10

Washington, D.C. 20590

Dear Sirs:

Request for Interpretation - Reciprocity Between Canada and US RE: Class 7 Shipments with Subsidiary Classes.

Based on communications with Michele Sampson - US DOT Radioactive Materials Enforcement (reference appended below), Ontario Power Generation is requesting a formal interpretation regarding the Labelling & Placarding requirements for the following scenario:

A Class 7 LSA-II Radioactive shipment which also has a subsidiary hazard (eg. Class 3).

Under the Canadian Transportation of Dangerous Goods - Clear Language regulation (TDG-CL), we are required (and permitted) to label and placard the Primary Class only when Class 7 materials are involved. Please refer to Part 4 Section 4.15 of TDG-CL (available on Transport Canada's website http://www.tc.gc.ca/acts-regulations/GENERAL/T/tdg/regulations/tdg001/part_1.htm).

We must not add subsidiary risk labels, and once a conveyance is loaded and en route, we cannot reasonably add the additional labels/safety marks required by U.S. D.O.T. for domestic shipments.

Although Canada and the United States have a reciprocity agreement, according to Ms. Sampson this type of cross-border shipment is subject to additional interpretation. My question is, "Does Reciprocity apply to this type of shipment, thus allowing us to ship (pack, label & placard) solely to Canadian regulations?"

The planned date for our shipment is November 28, 2003. This shipment requires significant planning and preparation; a timely response would be greatly appreciated.

Regards,

Mike Allan

Manager - Radioactive Material Shipments Section

Nuclear Waste Management

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Labeling RAM

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